



North Carolina Department of Environment and Natural Resources

Dexter Matthews, Director

Division of Waste Management

Beverly Eaves Perdue, Governor
Dee Freeman, Secretary

April 24, 2012

CERTIFIED MAIL 7009 1680 0000 7514 8819

RETURN RECEIPT REQUESTED

Bryan Steen – Burke County Manager
P.O. Box 219
Morganton, NC 28680

SUBJECT: **Notice of Violation**
Compliance Inspection Report
Johns River Landfills :
Construction & Demolition (C&D) and Municipal Solid Waste (MSW) Landfills
Permit Id Number: 12-03
Burke County

Dear Mr. Steen

On April 16, 2012 Bill Wagner – Environmental Senior Specialist, representing the State of North Carolina, Division of Waste Management Solid Waste Section, inspected the above referenced facility for compliance with North Carolina solid waste statutes and rules. Richard Robinson and Alan Holcombe were present and represented the Johns River Landfills during portions of this inspection. The following violations were noted:

- A. 15A NCAC 13B 13B .0534(b)(2)(C) states in part: “The permittee must furnish to the Division any relevant information that the Division may request to determine whether cause exists for modifying, revoking or suspending the permit, or to determine compliance with the permit.”**

Burke County has not provided the Solid Waste Section (SECTION) with information that the SECTION requested in the Notice of Violation (NOV) dated August 29, 2011. Specifically, the SECTION requested in the NOV, that no later than October 10, 2011, Burke County submit to Bill Wagner a written plan, with time lines, for correcting violations of 15A NCAC 13B .0544(b)(2). To date, Burke County has failed to provide the requested information.

- B. 15A NCAC 13B .0542(a) states in part: “The owner or operator of a C&DLF unit must maintain and operate the facility in accordance with the operation plan prepared in accordance with this Rule.” Section 3(D) – “Cover Materials Requirements” of Burke County’s approved “Operations Plan” states that “Waste will be covered with six inches of earthen material when the waste disposal area exceeds one-half acre and at least once a week.”**

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On April 16, 2012, inadequate cover on approximately 0.7-acres of the landfill was observed. This area had not been covered with six-inches of earthen material as required by 15A NCAC 13B .0542(a). Burke County has failed to operate the C&D landfill in accordance with their approved "Operations Plan" in that they have failed to cover waste with six-inches of earthen material when the waste disposal area exceeds one-half acre.

- C. 15A NCAC 13B .0544(b)(2) states in part: "Monitoring wells must be designed and constructed in accordance with the applicable North Carolina Well Construction Standards as codified in 15A NCAC 02C."**

On April 16, 2012, two groundwater monitoring wells that were not secured with locking well caps in accordance with the requirements set forth in 15A NCAC 02C, as required by 15A NCAC 13B .0544(b)(2) were observed. Specifically 15A NCAC 02C .0108(k) requires that: "All non-water supply wells, including temporary wells, shall be secured with a locking well cap to ensure against unauthorized access and use."

- D. 15A NCAC 13B .1627(d)(1)(A) states in part that pos-closure criteria consist of the following: "Maintaining the integrity and effectiveness of any cap system, including making repairs to the cover as necessary to correct the effects of settlement, subsidence, erosion, or other events, and preventing run-on and run-off from eroding or otherwise damaging the cap system."**

On April 16, 2012 two areas of excessive on-site erosion and insufficient vegetative cover were observed on the closed Municipal Solid Waste (MSW) landfill. Burke County has failed to maintain the integrity and effectiveness of the cap system of the MSW landfill in accordance with the requirements in 15A NCAC 13B .1627(d)(1)(A) in that they have failed to make necessary repairs to the cap to correct the effects of erosion, settlement, subsidence and other events from eroding or otherwise damaging the cap system.

COMPLIANCE SCHEDULE

- a) Based upon the foregoing, Burke County shall come into compliance by **May 26, 2012** with all requirements of the application regulations in **15A NCAC 13B 13B .0534(b)(2)(C)** by completing the following "Corrective Actions":

Burke County must submit to Bill Wagner a written plan, with time lines, for all of the following:

- 1. Ensure that each groundwater monitoring well and each landfill gas well is secured with a locking well cap in accordance with the requirements in 15A NCAC 2C .0108(k).**
- 2. Provide each groundwater monitoring well and each landfill gas well with a permanent identification plate in accordance with the requirements in 15A NCAC 2C .0108(o). The specific IDs for each well must correspond with the IDs for each well designation on landfill maps.**

- b) Based upon the foregoing, Burke County shall come into compliance by **May 4, 2012** with all requirements of the application regulations in **15A NCAC 13B .0542(a)** by completing the following "Corrective Actions":

Burke County must cover all wastes with six inches of earthen material when the waste disposal area exceeds on-half acre and at least once a week."

- c) Based upon the foregoing, Burke County shall come into compliance by **May 4, 2012** with all requirements of the application regulations in **15A NCAC 13B .0544(b)(2)** by completing the following "Corrective Actions":

Burke County must ensure that all groundwater and landfill gas monitoring wells are properly secured to prevent unauthorized access and use in accordance with the requirements in 15A NCAC 02C .0108(k).

- d) Based upon the foregoing, Burke County shall come into compliance by **May 4, 2012** with all requirements of the application regulations in **15A NCAC 13B 13B .0534(b)(2)(C)** by completing the following "Corrective Actions":

Burke County must immediately take all necessary actions needed to correct all instances of excessive on-site erosion and re-establish a vegetative cover wherever needed, in accordance with the requirements in 15A NCAC 13B .1627(d)(1)(A) and in accordance with their approve *Operations Plan*.

Burke County shall provide a written certification with supporting documentation on company letterhead confirming the noted compliance schedule has been completed. Include in this certification any actions taken to prevent these deficiencies from occurring in the future. Mail this certification to Bill Wagner, at the address below, by the noted compliance date.

Bill Wagner
NCDENR – Asheville Regional Office
2090 US Hwy 70
Swannanoa, NC 28778

Failure to comply with this schedule may subject the facility and/or all responsible parties to enforcement actions including penalties, injunction from operation of a solid waste management facility or a solid waste collection service and any such further relief as may be necessary to achieve compliance with the North Carolina Solid Waste Management Act and Rules. Pursuant to N.C.G.S. 130A-22(a) and 15A NCAC 13B .0701-.0707, an administrative penalty of up to \$15,000.00 per day may be assessed for each violation of the Solid Waste Laws, Regulations, Conditions of a Permit, or an Order issued under Article 9 of Chapter 130A of the N.C. General Statutes.

If you have any questions, please contact me at (828) 296-4705 or by e-mail at bill.wagner@ncdenr.gov.

Sincerely,



Bill Wagner
Environmental Senior Specialist
Solid Waste Section

Enc: Facility Compliance Inspection Report of 4/24/12

ec: Mark Poindexter, Field Operations Branch Head – Solid Waste Section
Jason Watkins, Western District Supervisor – Solid Waste Section
Jessica Montie, Compliance Officer – Solid Waste Section
Carson Fisher, Burke County General Service Director / Engineer, hcfisher@co.burke.nc.us